



Docket No. 1232-4733

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): TAKAHASHI et al

Group Art Unit: 2615

Serial No.: 09/898,857

Examiner: Tia M. Harris

Filed: July 3, 2001

For: IMAGE SENSING SYSTEM AND ITS CONTROL METHOD

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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MAR 08 2004

Technology Center 2600

CERTIFICATE OF MAILING (37 C.F.R. §1.8(a))

Sir:

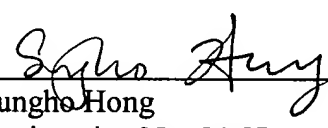
I hereby certify that the attached:

1. Response to Restriction/Election Requirement; and
2. Return Receipt Postcard.

along with any paper(s) referred to as being attached or enclosed and this Certificate of Mailing are being deposited with the United States Postal Service on date shown below with sufficient postage as first-class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: March 1, 2004

By: 
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PATENT

#6 2615
3-10-04
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RESPONSE TO RESTRICTION REQUIREMENT

In response to the Official Action dated January 19, 2004, in which pending claims 1-78 are subject to a Restriction and/or Election Requirement, Applicants provisionally elect to prosecute Species VI as shown in Figs. 16 and 17. Claims 9-31, 45-48 and 77 are readable on the elected figures.

In the Office Action, restriction and/or election under 35 U.S.C., §121 is required to elect one of the Species I-VII.

For the reasons stated in the Office Action, it is the Examiner's position that restriction and/or election for examination purposes as indicated is proper because each of the grouped inventions are distinct, have acquired a separate status in the art as shown by the identified different classifications and have divergent subject matter.

According to M.P.E.P. §803, however, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (1) The inventions must be independent or distinct as claimed; **and**
- (2) There must be serious burden on the examiner if restriction is not required.

Applicants disagree with the restriction and/or election requirement and invention grouping identified by the Examiner and make the above election with traverse.

Applicants respectfully submit that (1) all species of restricted claims are properly presented in the same application; (2) undue diverse searching would not be required; and (3) all claims should be examined together.

First, the Examiner has not shown that examination of all the pending claims would require undue searching and/or place a serious burden on the Examiner, which is the required showing for proper issuance of a restriction requirement.

It is respectfully submitted that it would not be unduly burdensome for the Examiner to search the classifications for all claimed inventions because all claimed inventions are directed to an image sensing system/method. Specifically, all of the Figures (i.e., Figs. 1-24) discloses different embodiments of the image sensing system including prior art system.

Accordingly, Applicants respectfully traverse the requirement for restriction and/or election at least on the grounds that searching all of these inventions would not be unduly burdensome and, in fact, would be necessary to ensure a complete and exhaustive search for a proper examination on the merits of any one of the identified species of inventions as a proper search should include the search directed to at least each of the other species. Applicants respectfully submit that the Requirement for Restriction and/or Election is improper for at least the reasons stated, and requests that the Restriction and/or Election Requirement be withdrawn and all filed claims be examined on the merits.

AUTHORIZATION

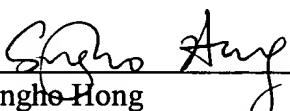
No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicants hereby petition the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 1232-4733). **A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.**

An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: March 1, 2004

By:


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